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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.

EXAMINER	
ART UNIT	PAPER NUMBER
	12

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

PTO-90C (Rev 2/95)

1- File Copy

Office Action Summary

Application No.	Applicant(s)
08/846,661	SAITO
Examiner	**Group Art Unit**
Hrayr A. Sayadian	2766

☒ Responsive to communication(s) filed on *Jul 22, 1999*.

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire *THREE* month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) *1-4* is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) *1-4* is/are rejected

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐approved ☐disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

GENERAL

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

REJECTIONS BASED ON DOUBLE PATENTING

2. The non-statutory double patenting rejection, whether of the obvious-type or non-obvious-type, is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper extension of duration of the "right to exclude" granted by a patent. *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); *In re Van Ornam*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); and *In re Goodman*, 29 USPQ2d 2010 (Fed. Cir. 1993).

A timely filed terminal disclaimer in compliance with 37 C.F.R. 1.321 (b) and (c) may be used to overcome an actual or provisional rejection based on a non-statutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 C.F.R. 1.78 (d).

Effective January 1, 1994, a registered attorney or agent of record may sign a Terminal Disclaimer. A Terminal Disclaimer signed by the assignee must fully comply with 37 C.F.R. 3.73(b).

3. Claims 1-4 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims of copending application Serial No. 08/882,909 (which is a continuation of 08/549,270, now abandoned), copending application serial no. 08/536,747, and copending parent application serial number 08/733,504. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims of said copending parent applications anticipate a data management center comprising a data center and a key center.

This is a *provisional* obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 1-4 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims of said copending patent applications and further in view of what is well known.

Examiner takes official notice that it is well known and common practice, as well as legally specified, to have copyrights in derived works of authorship, as derivative work copyrights. Examiner also takes official notice that owners of derivative copyrights, as any other owner of copyrights, would most likely advertise and sell ones product to capitalize on the effort expended in obtaining the derivative work of authorship. To capitalize and benefit from the effort expended in obtaining the derivative work of authorship, therefore, it would have been obvious to modify the copending applications by advertising and selling the modified work of authorship.

4. Claims 1-4 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims of parent US Pat No. 5,646,999. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims of said copending parent applications anticipate a data management center comprising a data center and a key center.

Claims 1-4 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims of said parent patent further in view of what is well known.

Examiner takes official notice that it is well known and common practice, as well as legally specified, to have copyrights in derived works of authorship, as derivative work copyrights. Examiner also takes official notice that owners of derivative copyrights, as any other owner of copyrights, would most likely advertise and sell ones product to capitalize on the effort expended in obtaining the derivative work of authorship. To capitalize and benefit from the effort expended in obtaining the derivative work of authorship, therefore, it would have been obvious to modify the copending applications by advertising and selling the modified work of authorship.

RESPONSE TO APPLICANT'S REMARKS TO THE LAST ACTION

5. Applicant's arguments with respect to claims 1-4 have been considered but are moot in view of the new ground(s) of rejection.

6. Applicant's have been fully considered but they are not persuasive. Applicant argues that double patenting rejection is not viable because of the advertising and selling limitation recited in the claims of this application. This argument is not convincing: Applicant is directed to the double patenting rejection supra explaining why it would have been obvious to advertise and sell the editing scenario.

TIME PERIOD FOR RESPONSE

This Action Is Made Final

7. Applicant's amendment necessitated the new grounds of rejection.

Accordingly, **THIS ACTION IS MADE FINAL.** See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION.

In the event a first response is filed within two months of the mailing date of this final action and the advisory action is not mailed until after the end of the three-month shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 C.F.R. 1.136(a) will be calculated from the mailing date of the advisory action.

IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

INFORMATION ON HOW TO CONTACT THE USPTO

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Hrayr A. Sayadian whose telephone number is (703) 306-4169. The examiner can normally be reached on Monday through Friday, from 8:30 a.m. to 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Gail Hayes, can be reached on (703) 305-9711. The fax phone number for Technology Center 2700 is (703) 308-9051 or 308-9052.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center receptionist whose telephone number is (703) 305-3800 or 305-4700.

Hrayr A. Sayadian
9-20-1999

Gail Hayes

GAIL O. HAYES
SUPERVISORY PATENT EXAMINER
GROUP 2700